

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 7. Mediation Questionnaire

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form07instructions.pdf>

9th Cir. Case Number(s) 20-70297

Case Name Children's Health Defense, et al v. FCC, et al

**Counsel submitting
this form** W. Scott McCollough

**Represented party/
parties** All named Petitioners (Children's Health Defense, et al)

Briefly describe the dispute that gave rise to this lawsuit.

Federal Communications Commission order terminating two proceedings and amending rules relating to wireless emissions standards. Petitioners seek review of the termination and the rule change.

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Briefly describe the result below and the main issues on appeal.

FCC terminated a Notice of Inquiry that sought public input on whether the Commission should amend its rules governing existing RF emission exposure limits and if so what changes should be made. FCC decided it would not propose amendments to its existing limits. Petitioners contest that finding and refusal.

The decision also denied a motion for reconsideration and affirmed its prior finding that the pinnae (outer ears) should be treated like other extremities for purposes of determining compliance with FCC RF emission exposure limits. Petitioners contest that action.

Based on its existing limits and continued treatment of ears as extremities, FCC revised its rules to "streamline" its "criteria for determining when a licensee is exempt from FCC RF exposure evaluation criteria" where it claimed "the risk of excessive RF exposure is minimal." FCC also provided "more flexibility" for licensees who do not qualify for an exemption "to establish compliance" with FCC's RF exposure limits. FCC also specified "methods that RF equipment operators can use to mitigate the risk of excess exposure, both to members of the public and trained workers." Petitioners seek review of the decision and amended rules.

Describe any proceedings remaining below or any related proceedings in other tribunals.

FCC issued a notice of proposed rulemaking listing certain proposed rule changes and invited comments. That portion remains before the FCC.

Petitioners disagree the cases are "related," but FCC has cited the challenged order in a contested motion to dismiss certain issues in *Re: Sprint Corp. v. FCC*, Nos. 19-70123, 19-70124, 19-70125, 19-70136, 19-70144, 19-70145, 19-70147, 19-70326, 19-70339, 19-70341, and 19-70344 (9th Cir.). See Dkts. 185, 186.

Signature s/ W. Scott McCollough

Date Feb 8, 2020

(use "s/[typed name]" to sign electronically-filed documents)